

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ICON INTERNATIONAL, INC.,

Plaintiff,

Civil Action No. \_\_\_\_\_

-against-

**COMPLAINT  
AND JURY DEMAND**

ELEVATION HEALTH LLC

Defendant.

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Plaintiff, ICON INTERNATIONAL, INC. (“Icon” or “plaintiff”), by its attorney,  
Bryan A. McKenna, complaining of the defendant, respectfully allege as follows:

**JURISDICTION AND VENUE**

1. This action seeks recovery of damages for breach of contract between plaintiff and defendant Elevation Health LLC (“Elevation” or “defendant”).

2. Subject matter jurisdiction is proper in this court pursuant to 28 U.S.C. Section 1332(a) as this is an action wherein:

a) Plaintiff is a corporation organized and existing pursuant to the laws of the State of Connecticut with its principal place of business in the state of Connecticut;

b) Defendant is a limited liability company organized and existing under the laws of the State of New York with its principal place of business in the state of New York and county of New York;

c) The amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs.

3. Venue in the Southern District of New York satisfies the requirements of 28 U.S.C. Section 1391 (b)(1) in that the defendant is a resident of this judicial district.

### **GENERAL ALLEGATIONS**

4. At all times hereinafter mentioned, plaintiff was a corporation organized and existing pursuant to the laws of Connecticut with its principal place of business in the state of Connecticut.

5. At all times hereinafter mentioned, defendant was and is a limited liability company organized and existing under the laws of the State of New York with its principal place of business in the State of New York and county of New York.

### **AS AND FOR A FIRST CAUSE OF ACTION**

6. On or about February 14, 2022, defendant entered into an agreement with plaintiff for the purchase of iHealth brand COVID-19 antigen test kits (the “Agreement” and the “Test Kits”).

7. The total value of the Agreement was in excess of \$65,000,000.

8. Thereafter, on February 14, and 17, 2022, Icon made deliveries of Test Kits to defendant.

9. Pursuant the Agreement, defendant presently owes Icon \$2,411,592.00 for the test kits actually delivered by Icon to defendant and accepted by defendant, which although demanded from defendant, has not been paid.

10. As to the remaining Test Kits that defendant was to purchase pursuant to the Agreement, Icon has sustained lost profits in an amount not less than \$6,000,000.

WHEREFORE, as a result of defendant’s breach of contract, plaintiff has sustained total damages

of not less than \$8,411,592.00

**JURY DEMAND**

Plaintiff hereby demands a trial by jury of all causes of action in the complaint.

**WHEREFORE**, plaintiff demands judgment against defendants on all causes of action in an amount in excess of \$75,000.00, together with interest thereon, as well as the costs and disbursements in this action.

Dated: New York, New York  
May 13, 2012



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